

INITIAL STATEMENT OF REASONS

Tahoe Exemption - 2002

[September 16, 2002]

Title 14 of the California Code of Regulations (14 CCR):

Amend:

§ 1038(f)(15)

Exemption

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATIONS ARE INTENDED TO ADDRESS

In November of 1995, the Board adopted regulations to address conditions that developed as a result of the prolonged drought that proceeded the winter of 1994/95. The drought contributed to increased levels of forest insects and disease and caused severe tree mortality in the Lake Tahoe Basin. This created conditions that could have resulted in a catastrophic fire and subsequent flooding, soil erosion, and significant impacts to other vital resources in the area. At that time, the Board desired to give landowners greater flexibility to remove insect and disease damaged timber while the drought effects still linger. The existing exemption regulations under 14 CCR § 1038(b) regarding the percent volume limit for removal of dead and dying trees could have hindered hazard reduction in the Lake Tahoe Basin. The greatest potential impact identified at that time was to water quality. Lake Tahoe is recognized by the federal government as an Outstanding National Resource Water. As such, no permanent or long-term reduction in water quality is allowed. Unless properly mitigated, logging activities could have potentially degraded water quality in the lake or its tributaries.

The regulations adopted by the Board in 1995 were part of a strengthened effort by a number of agencies to reduce fuel hazard in the Tahoe Basin. The rules that existed prior to that decision (especially 14 CCR § 1038) were viewed as a disincentive to landowners removing dead and dying trees by requiring the expense and time for preparation and review of a timber harvest plan for volumes of dead and dying trees in excess of 10 percent. In adopting the new rules in 1995, the Board established specific criteria for the exemption for harvesting dead and dying trees within the affected area and established a "sunset" for the regulation, which would allow the regulating agencies to continue to monitor the effects of the drought and the critical conditions related to tree mortality in the Lake Tahoe Basin consistent with policies of the Tahoe Regional Planning Agency (TRPA). At that time, a period of five (5) years was deemed appropriate to treat the lingering effects of the drought.

Since 1995, the various agencies and groups working to maintain and enhance the health of the forest in the Lake Tahoe Basin for the protection of the beneficial uses of water and other resources in the area (i.e. CDF, TRPA, and the Forest Health Consensus Group (FHCG)) have been monitoring the conditions related to forest health. At a recent meeting of the Board of Forestry and Fire Protection, a CDF representative reported to the Board that the Lake Tahoe Basin remains affected by increased levels of forest insects and disease and severe tree mortality. Conditions similar to those that led the Board to adopt special rules in 1995 continue to be of concern in the area. However, the regulations under 14 CCR § 1038(f) of the Forest Practice Rules that were intended to address these conditions will expire January 1, 2001.

SPECIFIC PURPOSE OF THE REGULATIONS

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) established the Legislature's concern throughout the State relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources furnish recreational opportunities and aesthetic enjoyment, while providing watershed protection. The Legislature declared that it is the policy of the State to encourage responsible forest management that considers the public's need for watershed protection and recreational opportunities alike (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to recreation, watershed, wildlife, fisheries, regional economic vitality, employment, and aesthetic enjoyment (ref. PRC § 4513). Public Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect soil, air, fish and wildlife, and water resources, including but not limited to streams and lakes.

Pursuant to 14 CCR § 1038(f), persons who conduct timber operations for the removal of dead or dying trees on parcels of 20 acres or less in size within the Lake Tahoe Basin, that are not part of a larger parcel of land in the same ownership, are currently exempt from the plan preparation and submission requirements (PRC 4581) and from the completion report and stocking report requirements (PRC 4585 and 4587) of the Forest Practice Act. However, the regulations under this section of the Forest Practice Rules will expire January 1, 2003. The Department has twice requested that the Board extend the effective period of the rules under 14 CCR § 1038(f) for a period of two (2) years. Now the Department has requested that the Board extend the effective period of the rules under 14 CCR § 1038(f) for an indefinite period to eliminate the need to renew these rules every two years. The purpose of this rulemaking action is to make the rules permanent. When the conditions in the Tahoe Basin change such that the rules are no longer needed the Board will rescind these rules. This change is proposed under subsection (f)(15).

NECESSITY

If the Board does not make the rules under 14 CCR § 1038(f) permanent, the regulations under this section of the Forest Practice Rules will expire January 1, 2003. This would not allow timberland owners in the Lake Tahoe Basin to be proactive in treating forest stand conditions similar to those that led the Board to adopt special rules in 1995 and could result in significant environmental impacts to this highly sensitive area. Therefore, the Board has determined that an extension of the effective period of the rules as proposed under this rulemaking action is necessary to prevent potential impacts due to increased levels of forest insects and disease and caused severe tree mortality in the Lake Tahoe Basin.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board did consult the following publications as referenced in this *Statement of Reasons*:

1. OAL File No. 95-1113-03 S

ALTERNATIVES TO THE REGULATION CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to, or considered by the Board at this time.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Board staff estimated that this regulation should not have any adverse economic impact on any business.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has not identified any adverse environmental effects from the proposed action. This action would enhance the environment protection because the risk of fire, erosion and degradation of water quality will be reduced.

Pursuant to Government Code § 11346.2(b)(6): In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation

revisions listed in this *Statement of Reasons*; the Board has directed the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

PROPOSED TEXT

The proposed revisions or additions to the existing rule language is represented in the following manner:

UNDERLINE indicates an addition to the California Code of Regulations, and

~~STRIKETHROUGH~~ indicates a deletion from the California Code of Regulations.

All other text is existing rule language.

jlm. 9/16/02

File: Tahoe ISOR